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LRB095 07951 AJ0 37411 a

1 AMENDMENT TO HOUSE BILL 563

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 563, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Internet Dating Disclosure and Safety Awareness Act.

7 Section 5. Definitions. As used in this Act:

8 "Communicate" or "communicating" means free-form text  
9 authored by a member or real-time voice communication through  
10 an online dating service provider.

11 "Member" means a person who submits to an online dating  
12 service provider the information required by the provider to  
13 access the provider's service for the purpose of engaging in  
14 dating, participating in compatibility evaluations with other  
15 persons, or obtaining matrimonial matching services.

16 "Online dating service provider" or "provider" means a

1 person engaged in the business of offering or providing to its  
2 members for a fee access to dating, compatibility evaluations  
3 between persons, or matrimonial matching services through the  
4 Internet.

5 "Sex offender registrant search" means a search for a  
6 person's current and historical registration status on each  
7 state's available sex offender registry, including the  
8 District of Columbia and Puerto Rico, initiated by an online  
9 dating service provider conducted through one of the means  
10 provided for in Section 10 of this Act.

11 "Sex offense conviction" means a conviction for an offense  
12 that would qualify the offender for registration as a sex  
13 offender pursuant to the Sex Offender Registration Act or under  
14 another state's equivalent statute.

15 Section 10. Sex offender registrant search. For purposes of  
16 this Act, a sex offender registrant search shall be conducted  
17 through one of the following means:

18 (1) by searching each available and regularly updated  
19 state-wide sex offender registry database in all 50 states  
20 plus Washington, D.C. and Puerto Rico; or

21 (2) by searching a database maintained and regularly  
22 updated by a private vendor whose database contains  
23 state-wide sex offender registrant information for all 50  
24 states plus Washington, D.C. and Puerto Rico as would be  
25 otherwise accessible through searches of all the available

1 government databases specified in item (1) of this Section.

2 Section 15. Sex offender registrant search; disclosures.

3 (a) An online dating service provider offering services to  
4 residents of this State shall disclose clearly and  
5 conspicuously, to any member who provides a billing address or  
6 a zip code in this State when registering with the provider,  
7 that the online dating provider either initiates a sex offender  
8 registrant search of sex offender registrations on each member  
9 prior to permitting any member to communicate with a member in  
10 this State or that the online dating service provider does not  
11 initiate such a sex offender registrant search.

12 (b) If the online dating service provider does not initiate  
13 sex offender registrant searches, the provider must make a  
14 disclosure that shall read:

15 "NO SEX OFFENDER REGISTRY SEARCH IS DONE ON MEMBERS  
16 WHO USE THIS SERVICE. PLEASE TAKE APPROPRIATE SAFETY  
17 MEASURES TO INCREASE AWARENESS OF POSSIBLE RISKS  
18 ASSOCIATED WITH DATING."

19 (c) If the online dating service provider does initiate sex  
20 offender registrant searches, the disclosure shall read:

21 ".....(NAME OF PROVIDER)..... INITIATES  
22 A SEX OFFENDER REGISTRY SEARCH OF ALL 50 STATES PLUS  
23 WASHINGTON, D.C. AND PUERTO RICO BEFORE A MEMBER IS  
24 PERMITTED TO COMMUNICATE WITH ANY MEMBER FROM ILLINOIS."

25 (d) The disclosure required by either subsection (b) or

1 subsection (c) of this Section shall appear on a web page  
2 required to be viewed by a person applying to be a member who  
3 has indicated a billing address or zip code in this State in  
4 the registration process. The disclosure cannot be more than 3  
5 inches from the top of the web page and must be:

6 (1) in bold capital letters;

7 (2) in at least 12 point type; and

8 (3) in a color that contrasts from the background.

9 The provider shall require the applicant in this State to  
10 make an electronic acknowledgement that the applicant has been  
11 provided the disclosure before the applicant is accepted as a  
12 member. The disclosure required by either subsection (b) or  
13 subsection (c) of this Section shall additionally appear on any  
14 page that appears to a member in this State each time that  
15 member initiates or receives a communication with another  
16 member through the provider's service.

17 (e) If the online dating service provider conducts sex  
18 offender registry searches and the provider has a policy  
19 allowing a member who has been identified as being on a sex  
20 offender registry to have access to its service to communicate  
21 with any member in this State, the provider shall clearly and  
22 conspicuously disclose on any communication to a member in this  
23 State from the member who has been identified as having been on  
24 a sex offender registry, and on any web page that is seen by or  
25 transmitted to a member in this State that contains the  
26 personal information for the member who has been identified as

1 having been on a sex offender registry and that is seen by or  
2 communicated to a member in this State, a disclosure that shall  
3 read:

4 "THIS PERSON HAS BEEN IDENTIFIED AS A CURRENT OR FORMER  
5 SEX OFFENDER REGISTERED ON ONE OR MORE SEX OFFENDER  
6 REGISTRIES."

7 Section 20. Provider policies; disclosure. An online  
8 dating service provider that conducts sex offender registry  
9 searches shall establish an automatic electronic link from any  
10 web page containing the disclosure required by subsection (c)  
11 of Section 15 to a web page that provides a safety awareness  
12 notification. The web page containing the safety awareness  
13 notification shall be configured such that it shall  
14 automatically appear each time a member makes the electronic  
15 acknowledgement of the disclosure under subsection (c) of  
16 Section 15. The member is required to make an electronic  
17 acknowledgement of the safety awareness notification each time  
18 it appears and the acknowledgement shall appear at the bottom  
19 of the web page containing the notification. At a minimum, the  
20 safety awareness notification shall provide the following:

21 (1) A statement that reads:

22 "PERSONAL SAFETY AWARENESS NOTICE CAUTION: Before  
23 allowing Illinois members to communicate with other  
24 members . . . [Name of provider] . . . initiates a sex  
25 offender registry search of all 50 states' plus

1 Washington, D.C.'s and Puerto Rico's sex offender  
2 registries to determine if a member is a current or  
3 former sex offender registrant. The purpose is to  
4 provide a preliminary background screening for  
5 protection of our members before they are permitted to  
6 begin communicating directly with each other.

7 The sex offender registrant searches for sex  
8 offenders convictions are not foolproof and are not  
9 intended to give members a false sense of security. Sex  
10 offender registrant searches are not a perfect safety  
11 solution and offenders may circumvent even the most  
12 sophisticated search technology or registration  
13 requirements.

14 Not all sex offender records are public in all  
15 states and not all databases are up-to-date. Only  
16 publicly available sex offender registrant data is  
17 included in the search.

18 Anyone who is able to commit identity theft can  
19 also falsify a dating profile.

20 There is no substitute for using good common sense  
21 and acting with caution when communicating with any  
22 stranger who wants to meet you."

23 (2) A list and description of safety measures  
24 reasonably designed to increase awareness of safer dating  
25 practices as determined by the provider.

1           Section 25. Application. Any online dating service  
2 provider that signs up members from Illinois must comply with  
3 the provisions of this Act.

4           Section 30. Jurisdiction. An online dating service that  
5 engages in the act of transmitting files over the Internet  
6 addressed to residents of the State, and the act of accepting  
7 membership fees from residents of the State, means that the  
8 online dating service is operating, conducting, engaging in,  
9 and otherwise carrying on a business in the State, subjecting  
10 the online dating service providers to regulation by the State  
11 and to the jurisdiction of the State's courts.

12           Section 35. Unlawful practice. Failure to comply with the  
13 disclosure requirements of this Act shall constitute a an  
14 unlawful business practice under the Consumer Fraud and  
15 Deceptive Business Practices Act. Each failure to provide the  
16 required disclosure constitutes a separate violation.

17           Section 40. Exemptions.

18           (a) An Internet service provider does not violate this Act  
19 solely as a result of serving as an intermediary for the  
20 transmission of electronic messages between members of an  
21 online dating service provider.

22           (b) An Internet access service or other Internet service  
23 provider shall not be considered an online dating service

1 provider within the meaning of this Act as to any online dating  
2 service website provided by another person or entity.

3 (c) An Internet service provider that has fewer than 1,000  
4 members is exempt from the requirements of this Act.

5 Section 45. Severability. If any provision of this Act or  
6 its application to any person or circumstance is held invalid,  
7 the invalidity of that provision or application does not affect  
8 other provisions or applications of this Act that can be given  
9 effect without the invalid provision or application.

10 Section 500. The Consumer Fraud and Deceptive Business  
11 Practices Act is amended by changing Section 2Z as follows:

12 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

13 Sec. 2Z. Violations of other Acts. Any person who knowingly  
14 violates the Automotive Repair Act, the Automotive Collision  
15 Repair Act, the Home Repair and Remodeling Act, the Dance  
16 Studio Act, the Physical Fitness Services Act, the Hearing  
17 Instrument Consumer Protection Act, the Illinois Union Label  
18 Act, the Job Referral and Job Listing Services Consumer  
19 Protection Act, the Travel Promotion Consumer Protection Act,  
20 the Credit Services Organizations Act, the Automatic Telephone  
21 Dialers Act, the Pay-Per-Call Services Consumer Protection  
22 Act, the Telephone Solicitations Act, the Illinois Funeral or  
23 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic

1 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home  
2 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud  
3 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax  
4 Act, the Payday Loan Reform Act, subsection (a) or (b) of  
5 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail  
6 Act, paragraph (6) of subsection (k) of Section 6-305 of the  
7 Illinois Vehicle Code, the Internet Dating Disclosure and  
8 Safety Awareness Act, Article 3 of the Residential Real  
9 Property Disclosure Act, the Automatic Contract Renewal Act, or  
10 the Personal Information Protection Act commits an unlawful  
11 practice within the meaning of this Act.

12 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,  
13 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,  
14 eff. 1-1-06; 94-822, eff. 1-1-07.)".